



May 18, 2000

Ms. Doretta Conrad
Administrator
State Board of Plumbing Examiners
P.O. Box 4200
Austin, Texas 78765

OR2000-1977

Dear Ms. Conrad:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 136311.

The Texas State Board of Plumbing Examiners (the "board") received a request for various information regarding the use of a state vehicle, use of credit cards issued to the board, and expense reimbursements. You state that you will release some of the requested information. You claim that some of the requested information is excepted from disclosure pursuant to subsection 552.107(1) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Subsection 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

You contend that the submitted documents contain advice of counsel to the board that is subject to the attorney-client privilege. You explain that each document consists of hand-written notes by the administrator of the board and that the notes pertain to conversations with an Assistant Attorney General who represents the board. You assert that each document reflects legal advice within the attorney-client privilege. Based on your representations and our review of the submitted documents, we conclude that the information is excepted from disclosure under section 552.107(1) of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.


This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, reading "Julie Reagan Watson". The signature is written in a cursive, flowing style.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/nc

Ref: ID# 136311

Encl. Submitted documents

cc: Mr. Hector De Leon
De Leon, Boggins & Icenogle
221 West 6th Street, Suite 1050
Austin, Texas 78701
(w/o enclosures)